

104TH CONGRESS  
1ST SESSION

# H. R. 2823

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 1995

Mr. GILCHREST (for himself, Mr. CUNNINGHAM, Mr. RICHARDSON, Mr. BOEHLERT, Mr. BILBRAY, Mr. GOSS, Mr. YOUNG of Alaska, Mr. PACKARD, Mr. CASTLE, Mr. LAZIO of New York, Mr. GILLMOR, Mr. KOLBE, Mr. SHAYS, Mr. HUNTER, Mr. KLUG, Mr. HANSEN, Mr. POMBO, Mr. CARDIN, Mr. DEFazio, Mr. COBLE, Mr. EHLERS, Mr. UPTON, Mr. DAVIS, Mrs. MORELLA, Mr. TORKILDSSEN, Mr. FOLEY, and Mr. BLUTE) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “International Dolphin Conservation Program Act”.

1 (b) REFERENCES TO MARINE MAMMAL PROTECTION  
2 ACT.—Except as otherwise expressly provided, whenever  
3 in this Act an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to a  
6 section or other provision of the Marine Mammal Protec-  
7 tion Act of 1972 (16 U.S.C. 1361 et seq.).

8 **SEC. 2. PURPOSE AND FINDINGS.**

9 (a) PURPOSE.—The purpose of this Act is to give ef-  
10 fect to the Declaration of Panama, signed October 4,  
11 1995, by the Governments of Belize, Colombia, Costa  
12 Rica, Ecuador, France, Honduras, Mexico, Panama,  
13 Spain, the United States of America, Vanuatu, and Ven-  
14 ezuela, including the establishment of the International  
15 Dolphin Conservation Program, relating to the protection  
16 of dolphins and other species, and the conservation and  
17 management of tuna in the eastern tropical Pacific Ocean.

18 (b) FINDINGS.—The Congress finds that twelve na-  
19 tions, including the United States, agreed in the Declara-  
20 tion of Panama to, among other things—

21 (1) require that the total annual dolphin mor-  
22 tality in the purse seine fishery for yellowfin tuna in  
23 the eastern tropical Pacific Ocean not exceed 5,000,  
24 with the commitment and objective to progressively

1       reduce dolphin mortality to levels approaching zero  
2       through the setting of annual limits;

3           (2) establish a per-stock per-year mortality  
4       limit up to the year 2001 of between 0.2 percent and  
5       0.1 percent of the minimum population estimate;

6           (3) starting with the year 2001, require that  
7       the per-stock per-year mortality of dolphin not ex-  
8       ceed 0.1 percent of the minimum population esti-  
9       mate;

10          (4) require that in the event that the mortality  
11       limits in paragraph (1), (2), or (3) are exceeded, all  
12       sets on dolphins in the case of paragraph (1), or sets  
13       on such stock and any mixed schools containing  
14       members of such stock in the case of paragraph (2)  
15       or (3), shall cease for that fishing year; in the case  
16       of paragraph (2), to conduct a scientific review and  
17       assessment in 1998 of progress toward the year  
18       2000 objective and consider recommendations as ap-  
19       propriate; and, in the case of paragraph (3), to con-  
20       duct a scientific review and assessment regarding  
21       that stock or those stocks and consider further rec-  
22       ommendations;

23          (5) establish a per-vessel maximum annual dol-  
24       phin mortality limit consistent with the established  
25       per-year mortality caps; and

1           (6) provide a system of incentives to vessel cap-  
2           tains to continue to reduce dolphin mortality, with  
3           the goal of eliminating dolphin mortality.

4   **SEC. 3. DEFINITIONS.**

5           Section 3 (16 U.S.C. 1362) is amended by adding  
6           at the end the following new paragraphs:

7           “(28) The term ‘International Dolphin Conservation  
8           Program’ means the international program established by  
9           the agreement signed in La Jolla, California, in June  
10          1992, as formalized, modified, and enhanced in accord-  
11          ance with the Declaration of Panama.

12          “(29) The term ‘Declaration of Panama’ means the  
13          declaration signed in Panama City, Republic of Panama,  
14          on October 4, 1995.”.

15   **SEC. 4. AMENDMENTS TO TITLE I.**

16          (a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is  
17          amended—

18               (1) by inserting in the first sentence “, and au-  
19               thorizations may be granted under title III with re-  
20               spect to the yellowfin tuna fishery of the eastern  
21               tropical Pacific Ocean, subject to regulations pre-  
22               scribed under that title by the Secretary without re-  
23               gard to section 103” before the period; and

24               (2) by striking the semicolon in the second sen-  
25               tence and all that follows through “practicable”.

1       (b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B))  
2 is amended to read as follows:

3               “(B) In the case of yellowfin tuna har-  
4 vested with purse seine nets in the eastern trop-  
5 ical Pacific Ocean, and products therefrom, to  
6 be exported to the United States, shall require  
7 that the government of the exporting nation  
8 provide documentary evidence that—

9               “(i) the tuna or products therefrom  
10 were not banned from importation under  
11 section 101(a)(2) before the effective date  
12 of this section; or

13               “(ii) the tuna or products therefrom  
14 were harvested after the effective date of  
15 this section by vessels of a nation which  
16 participates in the International Dolphin  
17 Conservation Program, and such harvest-  
18 ing nation is either a member of the Inter-  
19 American Tropical Tuna Commission or  
20 has initiated steps, in accordance with arti-  
21 cle V, paragraph 3 of the Convention es-  
22 tablishing the Inter-American Tropical  
23 Tuna Commission, to become a member of  
24 that organization,

1           except that the Secretary shall not accept such  
2           documentary evidence as satisfactory proof for  
3           purposes of this paragraph if—

4                   “(I) the government of the harvesting  
5                   nation does not authorize the Inter-Amer-  
6                   ican Tropical Tuna Commission to release  
7                   sufficient information to the Secretary to  
8                   allow a determination of compliance with  
9                   the International Dolphin Conservation  
10                  Program; or

11                   “(II) after taking into consideration  
12                   this information, findings of the Inter-  
13                   American Tropical Tuna Commission, and  
14                   any other relevant information, including  
15                   but not limited to information that a na-  
16                   tion is consistently failing to take enforce-  
17                   ment actions on violations which diminish  
18                   the effectiveness of the International Dol-  
19                   phin Conservation Program, the Secretary,  
20                   in consultation with the Secretary of State,  
21                   finds that the harvesting nation is not in  
22                   compliance with the International Dolphin  
23                   Conservation Program.”.

24           (c) Section 101 (16 U.S.C. 1371) is amended by add-

25   ing at the end the following new subsection:

1       “(d) The provisions of this Act shall not apply to a  
2 citizen of the United States when such citizen incidentally  
3 takes any marine mammal during fishing operations out-  
4 side the United States exclusive economic zone when em-  
5 ployed on a foreign fishing vessel of a harvesting nation  
6 which is in compliance with the International Dolphin  
7 Conservation Program.”.

8       (d) Section 104(h) is amended to read as follows:

9       “(h)(1) Consistent with the regulations prescribed  
10 pursuant to section 103 of this title and to the require-  
11 ments of section 101 of this title, the Secretary may issue  
12 an annual permit to a United States vessel for the taking  
13 of such marine mammals, together with regulations to  
14 cover the use of any such annual permits.

15       “(2) Such annual permits for the incidental taking  
16 of marine mammals in the course of commercial purse  
17 seine fishing for yellowfin tuna in the eastern tropical Pa-  
18 cific Ocean shall be governed by section 304, subject to  
19 the regulations issued pursuant to section 302.”.

20       (e) Section 110 (16 U.S.C. 1380) is amended—

21               (1) by redesignating subsection (a)(1) as sub-  
22 section (a); and

23               (2) by striking subsection (a)(2).

1       (f) Subsection (d)(1) of the Dolphin Protection  
2 Consumer Information Act (16 U.S.C. 1385(d)(1)) is  
3 amended to read as follows:

4           “(1) It is a violation of section 5 of the Federal  
5 Trade Commission Act for any producer, importer,  
6 exporter, distributor, or seller of any tuna product  
7 that is exported from or offered for sale in the  
8 United States to include on the label of that product  
9 the term ‘Dolphin Safe’ or any other term or symbol  
10 that falsely claims or suggests that the tuna con-  
11 tained in the product was harvested using a method  
12 of fishing that is not harmful to dolphins if the  
13 product contains—

14           “(A) tuna harvested on the high seas by a  
15 vessel engaged in driftnet fishing;

16           “(B) tuna harvested in the eastern tropical  
17 Pacific Ocean by a vessel using purse seine nets  
18 which do not meet the requirements of being  
19 considered dolphin safe under paragraph (2); or

20           “(C) tuna harvested outside the eastern  
21 tropical Pacific Ocean by a vessel using purse  
22 seine nets which do not meet the requirements  
23 for being considered dolphin safe under para-  
24 graph (3).”.



1       (g) Subsection (d)(2) of the Dolphin Protection  
2 Consumer Information Act (16 U.S.C. 1385(d)(2)) is  
3 amended to read as follows:

4           “(2) For purposes of paragraph (1)(B), a tuna  
5 product that contains tuna harvested in the eastern  
6 tropical Pacific Ocean by a vessel using purse seine  
7 nets is dolphin safe if—

8           “(A) the vessel is of a type and size that  
9 the Secretary has determined, consistent with  
10 the International Dolphin Conservation Pro-  
11 gram, is not capable of deploying its purse seine  
12 nets on or to encircle dolphins; or

13           “(B)(i) the product is accompanied by a  
14 written statement executed by the captain of  
15 the vessel which harvested the tuna certifying  
16 that no dolphins were killed during the sets in  
17 which the tuna were caught; and

18           “(ii) the product is accompanied by a writ-  
19 ten statement executed by—

20           “(I) the Secretary or the Secretary’s  
21 designee;

22           “(II) a representative of the Inter-  
23 American Tropical Tuna Commission; or

24           “(III) an authorized representative of  
25 a participating nation whose national pro-

1                   gram meets the requirements of the Inter-  
2                   national Dolphin Conservation Program,  
3           which states that there was an observer ap-  
4           proved by the International Dolphin Conserva-  
5           tion Program on board the vessel during the en-  
6           tire trip and documents that no dolphins were  
7           killed during the sets in which the tuna in the  
8           tuna product were caught; and

9                   “(iii) the statements referred to in clauses  
10           (i) and (ii) are endorsed in writing by each ex-  
11           porter, importer, and processor of the product;  
12           and

13                   “(C) the written statements and endorse-  
14           ments referred to in subparagraph (B) comply  
15           with regulations promulgated by the Secretary  
16           which would provide for the verification of tuna  
17           products as dolphin safe.”.

18           (h) Subsection (d) of the Dolphin Protection  
19   Consumer Information Act (16 U.S.C. 1385(d)) is amend-  
20   ed further by adding the following new paragraphs:

21                   “(3) For purposes of paragraph (1)(C), tuna or  
22           a tuna product that contains tuna harvested outside  
23           the eastern tropical Pacific Ocean by a fishing vessel  
24           using purse seine nets is dolphin safe if—

1           “(A) it is accompanied by a written state-  
2           ment executed by the captain of the vessel cer-  
3           tifying that no purse seine net was intentionally  
4           deployed on or to encircle dolphins during the  
5           particular voyage on which the tuna was har-  
6           vested; or

7           “(B) in any fishing in which the Secretary  
8           has determined that a regular and significant  
9           association occurs between marine mammals  
10          and tuna, it is accompanied by a written state-  
11          ment executed by the captain of the vessel and  
12          an observer, certifying that no purse seine net  
13          was intentionally deployed on or to encircle ma-  
14          rine mammals during the particular voyage on  
15          which the tuna was harvested.

16          “(4) No tuna product may be labeled with any  
17          reference to dolphins, porpoises, or marine mam-  
18          mals, except as dolphin safe in accordance with this  
19          subsection.”.

20          (i) Subsection (f) of the Dolphin Protection  
21          Consumer Information Act (16 U.S.C. 1385(f)) is amend-  
22          ed to read as follows:

23          “(f) The Secretary, in consultation with the Secretary  
24          of the Treasury, shall issue regulations to implement this  
25          section not later than three months after the effective date

1 of this section, including, but not limited to, regulations  
2 addressing the use of weight calculation and well location,  
3 and which require that tuna products are labeled in ac-  
4 cordance with subsection (d).”.

5 **SEC. 5. AMENDMENTS TO TITLE III.**

6 (a) The heading of title III is amended to read as  
7 follows:

8 **“TITLE III—INTERNATIONAL**  
9 **DOLPHIN CONSERVATION**  
10 **PROGRAM”.**

11 (b) Section 301 (16 U.S.C. 1411) is amended—

12 (1) in subsection (a), by striking paragraph (4)  
13 and inserting in lieu thereof:

14 “(4) Nations harvesting yellowfin tuna in the  
15 eastern tropical Pacific Ocean have demonstrated  
16 their willingness to participate in appropriate multi-  
17 lateral agreements to reduce, with the goal of elimi-  
18 nating, dolphin mortality in that fishery. Recognition  
19 of the International Dolphin Conservation Program  
20 will assure that the existing trend of reduced dolphin  
21 mortality continues; that individual stocks of dol-  
22 phins are adequately protected; and that the goal of  
23 eliminating all dolphin mortality continues to be a  
24 priority.”; and

1           (2) in subsection (b), by striking paragraphs  
2           (2) and (3) and inserting in lieu thereof:

3           “(2) support the International Dolphin Con-  
4           servation Program and efforts within the Program  
5           to reduce, with the goal of eliminating, the mortality  
6           referred to in paragraph (1);

7           “(3) ensure that the market of the United  
8           States does not act as an incentive to the harvest of  
9           tuna caught with driftnets or caught by purse seine  
10          vessels in the eastern tropical Pacific Ocean not op-  
11          erating in compliance with the International Dolphin  
12          Conservation Program;”.

13          (c) Section 302 (16 U.S.C. 1412) is amended to read  
14 as follows:

15 **“SEC. 302. AUTHORITY OF THE SECRETARY.**

16          “(a) REGULATIONS.—(1) The Secretary shall issue  
17 regulations to implement the International Dolphin Con-  
18 servation Program.

19          “(2)(A) Not later than three months after the effec-  
20 tive date of this section, the Secretary shall issue regula-  
21 tions to authorize and govern the incidental taking of ma-  
22 rine mammals in the eastern tropical Pacific Ocean, in-  
23 cluding any species of marine mammal designated as de-  
24 pleted under this Act but not listed as endangered or  
25 threatened under the Endangered Species Act (16 U.S.C.

1 1531 et seq.), by vessels of the United States participating  
2 in the International Dolphin Conservation Program.

3 “(B) Regulations issued under this section shall in-  
4 clude provisions—

5 “(i) requiring observers on each vessel;

6 “(ii) requiring use of the backdown procedure  
7 or other procedures equally or more effective in  
8 avoiding mortality of marine mammals in fishing op-  
9 erations;

10 “(iii) prohibiting intentional sets on stocks and  
11 schools in accordance with the International Dolphin  
12 Conservation Program;

13 “(iv) requiring the use of special equipment, in-  
14 cluding, but not limited to, dolphin safety panels in  
15 nets, operable rafts, speedboats with towing bridles,  
16 floodlights in operable condition, and diving masks  
17 and snorkels;

18 “(v) ensuring that the backdown procedure dur-  
19 ing sets of purse seine net on marine mammals is  
20 completed and rolling of the net to sack up has  
21 begun no later than thirty minutes after sundown;

22 “(vi) banning the use of explosive devices in all  
23 purse seine operations;

24 “(vii) establishing per vessel maximum annual  
25 dolphin mortality limits, total dolphin mortality lim-

1 its and per-stock per-year mortality limits in accord-  
2 ance with the International Dolphin Conservation  
3 Program;

4 “(viii) preventing the making of intentional sets  
5 on dolphins after reaching either the vessel maxi-  
6 mum annual dolphin mortality limits, total dolphin  
7 mortality limits, or per-stock per-year mortality lim-  
8 its;

9 “(ix) preventing the fishing on dolphins by a  
10 vessel without an assigned vessel dolphin mortality  
11 limit;

12 “(x) allowing for the authorization and conduct  
13 of experimental fishing operations, under such terms  
14 and conditions as the Secretary may prescribe, for  
15 the purpose of testing proposed improvements in  
16 fishing techniques and equipment that may reduce  
17 or eliminate dolphin mortality or do not require the  
18 encirclement of dolphins in the course of commercial  
19 yellowfin tuna fishing; and

20 “(xi) containing such other restrictions and re-  
21 quirements as the Secretary determines are nec-  
22 essary to implement the International Dolphin Con-  
23 servation Program with respect to vessels of the  
24 United States;

1 except that the Secretary may make such adjustments as  
2 may be appropriate to provisions that pertain to fishing  
3 gear and fishing practice requirements in order to carry  
4 out the International Dolphin Conservation Program.

5 “(b) CONSULTATION.—In developing any regulation  
6 under this section, the Secretary shall consult with the  
7 Secretary of State, the Marine Mammal Commission and  
8 the United States Commissioners to the Inter-American  
9 Tropical Tuna Commission appointed under section 3 of  
10 the Tuna Conventions Act of 1950 (16 U.S.C. 952).

11 “(c) EMERGENCY REGULATIONS.—(1) If the Sec-  
12 retary determines, on the basis of the best scientific infor-  
13 mation available (including that obtained under the Inter-  
14 national Dolphin Conservation Program) that the inciden-  
15 tal mortality and serious injury of marine mammals au-  
16 thorized under this title is having, or is likely to have, a  
17 significant adverse effect on a marine mammal stock or  
18 species, the Secretary shall take actions as follows—

19 “(A) notify the Inter-American Tropical Tuna  
20 Commission of his or her findings, along with rec-  
21 ommendations to the Commission as to actions nec-  
22 essary to reduce incidental mortality and serious in-  
23 jury and mitigate such adverse impact; and



1           “(B) prescribe emergency regulations to reduce  
2       incidental mortality and serious injury and mitigate  
3       such adverse impact.

4       “(2) Prior to taking action under paragraph (1) (A)  
5   or (B), the Secretary shall consult with the Secretary of  
6   State, the Marine Mammal Commission, and the United  
7   States Commissioners to the Inter-American Tropical  
8   Tuna Commission.

9       “(3) Emergency regulations prescribed under this  
10   subsection—

11           “(A) shall be published in the Federal Register,  
12       together with an explanation thereof;

13           “(B) shall remain in effect for the duration of  
14       the applicable fishing year; and

15           “(C) may be terminated by the Secretary at an  
16       earlier date by publication in the Federal Register of  
17       a notice of termination, if the Secretary determines  
18       that the reasons for the emergency action no longer  
19       exist.

20       “(4) If the Secretary finds that the incidental mortal-  
21   ity and serious injury of marine mammals in the yellowfin  
22   tuna fishery in the eastern tropical Pacific Ocean is con-  
23   tinuing to have a significant adverse impact on a stock  
24   or species, the Secretary may extend the emergency regu-  
25   lations for such additional periods as may be necessary.

1       “(d) RESEARCH.—The Secretary shall, in coopera-  
2       tion with the nations participating in the International  
3       Dolphin Conservation Program and with the Inter-Amer-  
4       ican Tropical Tuna Commission, undertake or support ap-  
5       propriate scientific research to further the goals of the  
6       International Dolphin Conservation Program, including,  
7       but not limited to—

8               “(1) devising cost-effective fishing methods and  
9               gear so as to reduce, with the goal of eliminating,  
10              the incidental mortality and serious injury of marine  
11              mammals in connection with commercial purse seine  
12              fishing in the eastern tropical Pacific Ocean;

13              “(2) developing cost-effective methods of fishing  
14              for mature yellowfin tuna without setting nets on  
15              dolphins or other marine mammals;

16              “(3) carrying out a scientific research program  
17              as described in section 117 for those marine mam-  
18              mal species and stocks taken in the purse seine fish-  
19              ery for yellowfin tuna in the eastern tropical Pacific  
20              Ocean, including species or stocks not within waters  
21              under the jurisdiction of the United States; and

22              “(4) studying the effect of chase and encircle-  
23              ment on the health and biology of dolphin and dol-  
24              phin populations incidentally taken in the course of

1       purse seine fishing for yellowfin tuna in the eastern  
2       tropical Pacific Ocean.

3       The Secretary shall include a description of the annual  
4       results of research carried out under this subsection in the  
5       report required under section 303.”.

6       (d) Section 303 (16 U.S.C. 1413) is hereby repealed.

7       (e) Section 304 (16 U.S.C. 1414) is hereby redesignig-  
8       nated as section 303, and amended to read as follows:

9       **“SEC. 303. REPORTS BY THE SECRETARY.**

10       “Notwithstanding section 103(f), the Secretary shall  
11       submit annual reports to the Congress which include—

12               “(1) results of research conducted pursuant to  
13       section 302;

14               “(2) a description of the status and trends of  
15       stocks of tuna;

16               “(3) a description of the efforts to assess,  
17       avoid, reduce, and minimize the bycatch of juvenile  
18       yellowfin tuna and bycatch of nontarget species;

19               “(4) a description of the activities of the Inter-  
20       national Dolphin Conservation Program and of the  
21       efforts of the United States in support of the Pro-  
22       gram’s goals and objectives, including the protection  
23       of dolphin populations in the eastern tropical Pacific  
24       Ocean, and an assessment of the effectiveness of the  
25       Program;

1           “(5) actions taken by the Secretary under sec-  
2           tion 101(a)(2)(B)(iii) (I) and (II);

3           “(6) copies of any relevant resolutions and deci-  
4           sions of the Inter-American Tropical Tuna Commis-  
5           sion, and any regulations promulgated by the Sec-  
6           retary under this title; and

7           “(7) any other information deemed relevant by  
8           the Secretary.”.

9           (f) Section 305 (16 U.S.C. 1415) is hereby repealed.

10          (g) Section 306 (16 U.S.C. 1416) is hereby redesign-  
11          nated as section 304, and amended to read as follows:

12       **“SEC. 304. PERMITS.**

13          “(a) IN GENERAL.—(1) Consistent with the regula-  
14          tions issued pursuant to section 302, the Secretary shall  
15          issue a permit to a vessel of the United States authorizing  
16          participation in the International Dolphin Conservation  
17          Program and may require a permit for the person actually  
18          in charge of and controlling the fishing operation of the  
19          vessel. The Secretary shall prescribe such procedures as  
20          are necessary to carry out this subsection, including, but  
21          not limited to, requiring the submission of—

22               “(A) the name and official number or other  
23               identification of each fishing vessel for which a per-  
24               mit is sought, together with the name and address  
25               of the owner thereof; and

1           “(B) the tonnage, hold capacity, speed, process-  
2           ing equipment, and type and quantity of gear, in-  
3           cluding an inventory of special equipment required  
4           under section 302, with respect to each vessel.

5           “(2) The Secretary is authorized to charge a fee for  
6           granting an authorization and issuing a permit under this  
7           section. The level of fees charged under this paragraph  
8           may not exceed the administrative cost incurred in grant-  
9           ing an authorization and issuing a permit. Fees collected  
10          under this paragraph shall be available to the Under Sec-  
11          retary of Commerce for Oceans and Atmosphere for ex-  
12          penses incurred in granting authorizations and issuing  
13          permits under this section.

14          “(3) After the effective date of this section, no vessel  
15          of the United States shall operate in the yellowfin tuna  
16          fishery in the eastern tropical Pacific Ocean without a  
17          valid permit issued under this section.

18          “(b) PERMIT SANCTIONS.—(1) In any case in  
19          which—

20                 “(A) a vessel for which a permit has been is-  
21                 sued under this section has been used in the com-  
22                 mission of an act prohibited under section 305;

23                 “(B) the owner or operator of any such vessel  
24                 or any other person who has applied for or been is-

1       sued a permit under this section has acted in viola-  
2       tion of section 305; or

3           “(C) any civil penalty or criminal fine imposed  
4       on a vessel, owner or operator of a vessel, or other  
5       person who has applied for or been issued a permit  
6       under this section has not been paid or is overdue,  
7       the Secretary may—

8           “(i) revoke any permit with respect to such  
9       vessel, with or without prejudice to the issuance  
10      of subsequent permits;

11          “(ii) suspend such permit for a period of  
12      time considered by the Secretary to be appro-  
13      priate;

14          “(iii) deny such permit; or

15          “(iv) impose additional conditions or re-  
16      strictions on any permit issued to, or applied  
17      for by, any such vessel or person under this sec-  
18      tion.

19      “(2) In imposing a sanction under this subsection,  
20      the Secretary shall take into account—

21          “(A) the nature, circumstances, extent, and  
22      gravity of the prohibited acts for which the sanction  
23      is imposed; and

1           “(B) with respect to the violator, the degree of  
2           culpability, any history of prior offenses, and other  
3           such matters as justice requires.

4           “(3) Transfer of ownership of a vessel, by sale or oth-  
5           erwise, shall not extinguish any permit sanction that is  
6           in effect or is pending at the time of transfer of ownership.  
7           Before executing the transfer of ownership of a vessel, by  
8           sale or otherwise, the owner shall disclose in writing to  
9           the prospective transferee the existence of any permit  
10          sanction that will be in effect or pending with respect to  
11          the vessel at the time of transfer.

12          “(4) In the case of any permit that is suspended for  
13          the failure to pay a civil penalty or criminal fine, the Sec-  
14          retary shall reinstate the permit upon payment of the pen-  
15          alty or fine and interest thereon at the prevailing rate.

16          “(5) No sanctions shall be imposed under this section  
17          unless there has been a prior opportunity for a hearing  
18          on the facts underlying the violation for which the sanction  
19          is imposed, either in conjunction with a civil penalty pro-  
20          ceeding under this title or otherwise.”.

21          (h) Section 307 (16 U.S.C. 1417) is hereby redesign-  
22          nated as section 305, and amended—

23                  (1) in subsection (a)—

24                          (A) by amending paragraph (1) to read as  
25                  follows:

1           “(1) for any person to sell, purchase, offer for  
2           sale, transport, or ship, in the United States, any  
3           tuna or tuna product unless the tuna or tuna prod-  
4           uct is either dolphin safe or has been harvested in  
5           compliance with the International Dolphin Conserva-  
6           tion Program by a country that is a member of the  
7           Inter-American Tropical Tuna Commission or has  
8           initiated steps, in accordance with Article V, para-  
9           graph 3 of the Convention establishing the Inter-  
10          American Tropical Tuna Commission, to become a  
11          member of that organization;”;

12                   (B) by striking paragraphs (2) and insert-  
13                   ing in lieu thereof the following:

14           “(2) except as provided for in subsection  
15          101(d), for any person or vessel subject to the juris-  
16          diction of the United States intentionally to set a  
17          purse seine net on or to encircle any marine mam-  
18          mal in the course of tuna fishing operations in the  
19          eastern tropical Pacific Ocean except in accordance  
20          with this title and regulations issued under pursuant  
21          to this title;”;

22                   (C) by amending paragraph (3) to read as  
23                   follows:

24           “(3) for any person to import any yellowfin  
25          tuna or yellowfin tuna product or any other fish or



1 fish product in violation of a ban on importation im-  
 2 posed under section 101(a)(2);”;

3 (2) in subsection (b)(2), by inserting “(a)(5)  
 4 and” before “(a)(6)”; and  
 5 (3) by deleting subsection (d).

6 (i) Section 308 (16 U.S.C. 1418) is redesignated as  
 7 section 306, and amended by striking “303” and inserting  
 8 in lieu thereof “302(d)”.

9 (j) CLERICAL AMENDMENTS.—The table of contents  
 10 in the first section of the Marine Mammal Protection Act  
 11 of 1972 is amended by striking the items relating to title  
 12 III and inserting in lieu thereof the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM  
 “Sec. 301. Findings and policy.  
 “Sec. 302. Authority of the Secretary.  
 “Sec. 303. Reports by the Secretary.  
 “Sec. 304. Permits.  
 “Sec. 305. Prohibitions.  
 “Sec. 306. Authorization of appropriations.”.

13 **SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.**

14 (a) Section 3(c) of the Tuna Conventions Act (16  
 15 U.S.C. 952(c)) is amended to read as follows:

16 “(c) at least one shall be either the Director, or an  
 17 appropriate regional director, of the National Marine  
 18 Fisheries Service; and”.

19 (b) Section 4 of the Tuna Conventions Act (16 U.S.C.  
 20 953) is amended to read as follows:

1 **“SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**  
2 **ADVISORY SUBCOMMITTEE.**

3 “The Secretary, in consultation with the United  
4 States Commissioners, shall:

5 “(1) Appoint a General Advisory Committee  
6 which shall be composed of not less than five nor  
7 more than fifteen persons with balanced representa-  
8 tion from the various groups participating in the  
9 fisheries included under the conventions, and from  
10 nongovernmental conservation organizations. The  
11 General Advisory Committee shall be invited to have  
12 representatives attend all nonexecutive meetings of  
13 the United States sections and shall be given full op-  
14 portunity to examine and to be heard on all pro-  
15 posed programs of investigations, reports, rec-  
16 ommendations, and regulations of the commission.  
17 The General Advisory Committee may attend all  
18 meetings of the international commissions to which  
19 they are invited by such commissions.

20 “(2) Appoint a Scientific Advisory Subcommit-  
21 tee which shall be composed of not less than five nor  
22 more than fifteen qualified scientists with balanced  
23 representation from the public and private sectors,  
24 including nongovernmental conservation organiza-  
25 tions. The Scientific Advisory Subcommittee shall  
26 advise the General Advisory Committee and the

1 Commissioners on matters including the conserva-  
2 tion of ecosystems; the sustainable uses of living ma-  
3 rine resources related to the tuna fishery in the east-  
4 ern Pacific Ocean; and the long-term conservation  
5 and management of stocks of living marine resources  
6 in the eastern tropical Pacific Ocean. In addition,  
7 the Scientific Advisory Subcommittee shall, as re-  
8 quested by the General Advisory Committee, the  
9 United States Commissioners or the Secretary, per-  
10 form functions and provide assistance required by  
11 formal agreements entered into by the United States  
12 for this fishery, including the International Dolphin  
13 Conservation Program. These functions may include:  
14 (A) the review of data from the Program, including  
15 data received from the Inter-American Tropical  
16 Tuna Commission; (B) recommendations on research  
17 needs, including ecosystems, fishing practices, and  
18 gear technology research, including the development  
19 and use of selective, environmentally safe and cost-  
20 effective fishing gear, and on the coordination and  
21 facilitation of such research; (C) recommendations  
22 concerning scientific reviews and assessments re-  
23 quired under the Program and engaging, as appro-  
24 priate, in such reviews and assessments; (D) consult-  
25 ing with other experts as needed; and (E) rec-

1       ommending measures to assure the regular and  
2       timely full exchange of data among the parties to  
3       the Program and each nation's National Scientific  
4       Advisory Committee (or equivalent).

5               “(3) Establish procedures to provide for appro-  
6       priate public participation and public meetings and  
7       to provide for the confidentiality of confidential busi-  
8       ness data. The Scientific Advisory Subcommittee  
9       shall be invited to have representatives attend all  
10      nonexecutive meetings of the United States sections  
11      and the General Advisory Subcommittee and shall be  
12      given full opportunity to examine and to be heard on  
13      all proposed programs of scientific investigation, sci-  
14      entific reports, and scientific recommendations of  
15      the commission. Representatives of the Scientific  
16      Advisory Subcommittee may attend meetings of the  
17      Inter-American Tropical Tuna Commission in ac-  
18      cordance with the rules of such Commission.

19              “(4) Fix the terms of office of the members of  
20      the General Advisory Committee and Scientific Advi-  
21      sory Subcommittee, who shall receive no compensa-  
22      tion for their services as such members.”.

23   **SEC. 7. EFFECTIVE DATE.**

24       Sections 3 through 6 of this Act shall become effec-  
25      tive upon certification by the Secretary of State to Con-

1 gress that a binding resolution of the Inter-American  
2 Tropical Tuna Commission or other legally binding instru-  
3 ment establishing the International Dolphin Conservation  
4 Program has been adopted and is in effect.



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